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COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 58th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 11 April 1997, at 6 p.m.

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| Chairman: | Mr. STROHAL | (Austria) |
| later: | Mr. SOMOL (Vice-Chairman) | (Czech Republic) |

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The meeting was called to order at 6.20 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (continued)

Draft resolutions under agenda item 9 (continued)

Draft resolution on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/1997/L.68/Rev.1)

1. Mr. HASSAN (Observer for Jordan), introducing the draft resolution, said that it emphasized the fundamental role of regional arrangements in promoting and protecting human rights while reaffirming their universality, indivisibility and equality. Those rights must be considered in the context of a dynamic and evolving process of international standard-setting, bearing in mind the significance of national and regional particularities and the various historical, cultural and religious backgrounds of the Asian and Pacific countries.

2. The resolution endorsed the conclusions of the fifth workshop, held at Amman, including the recognition of the importance of establishing a regional arrangement for the promotion and protection of human rights directed to the needs and priorities set by Governments of the region, and welcomed the offer by the Islamic Republic of Iran to host the sixth workshop at Tehran. The resolution also noted the development of a number of models of national institutions in Asian and Pacific countries in accordance with their own national conditions. Similarly, it recognized the need to develop strategies for the promotion and progressive realization of the right to development, and stressed that the regional cooperation programme could focus, at the request of the Governments concerned, on strengthening the role of national human rights institutions in promoting the realization of all human rights, including, in particular, economic, social and cultural rights and in realizing the right to development. Lastly, it requested the Secretary-General and the United Nations Development Programme (UNDP) to support that regional technical cooperation initiative and to provide resources for its implementation. He hoped that the draft resolution would be adopted without a vote.

3. Mrs. KLEIN (Secretary of the Commission), having noted that the Syrian Arab Republic was among the original sponsors of the draft, despite the fact that its name did not appear on the list of sponsors, said that Equatorial Guinea, Iran and Pakistan had also become sponsors.

4. The draft resolution (E/CN.4/1997/L.68/Rev.1) was adopted without a vote.

Draft resolutions under agenda item 18

Draft resolution on assistance to Guatemala in the field of human rights (E/CN.4/1997/L.61)

5. Mr. de ICAZA (Mexico), introducing the draft resolution on behalf of its sponsors, to which Guatemala should be added, said that the signing of the Agreement on a Firm and Lasting Peace by the Government of Guatemala and the

Unidad Revolucionara Nacional Guatemalteca (URNG) had represented a triumph of reason and dialogue over violence and intransigence. Peace had been restored in Guatemala and it was for the Government to ensure that the peace was maintained and that human rights were better respected. The Commission on Human Rights, for its part, must make every effort to help the Government carry out that task, in particular through the provision of advisory services.

6. The draft resolution in question was essentially the result of dialogue and negotiation between the representatives of the Government of Guatemala and of URNG, as was the proposed amendment to paragraph 15, distributed during the meeting. In the draft resolution, the Commission expressed its gratification at the conclusion of the peace negotiations, expressed the hope that the Commission to clarify past human rights violations would begin its work as soon as possible and called upon Guatemalan society as a whole to participate in building a new multi-ethnic, multicultural and multilingual nation. Regretting that violations of human rights and acts of violence persisted, the Commission welcomed with satisfaction the signing of the agreement on the provision of advisory services in the field of human rights between the Government of the Republic of Guatemala and the Centre for Human Rights aimed at the strengthening and development of governmental and non-governmental human rights organizations (paragraph 13).

7. Paragraphs 14 and 15 had been modified as a result of consultations between the Government of Guatemala and URNG. The following sentence should thus be added to the end of paragraph 15, which would become paragraph 14: "... and regrets her resignation presented to the Secretary-General in March this year." The text of existing paragraph 14, which would become paragraph 15, had been revised to read "Requests the Secretary-General to send a mission to Guatemala at the end of 1997, within the approved overall budget level for the current biennium, to prepare a report to be presented to the Commission on Human Rights at its fifty-fourth session on the evolution of the situation of human rights in Guatemala, in the light of the implementation of the Peace Agreements, taking into account the verification work done by MINUGUA and the information submitted by the Government of Guatemala, the Follow-up Commission on Compliance with the Peace Agreements, the political organizations and the non-governmental human rights organizations, as well as on the implementation of the Agreement on the provision of advisory services in the field of human rights signed by the Government of Guatemala and the High Commissioner for Human Rights, with a view to concluding the consideration of the case of Guatemala in the agenda of the Commission." The text reflected the Commission's new approach to the question of Guatemala, and his delegation and the other sponsors hoped that it would be adopted without a vote.

8. Mrs. KLEIN (Secretary of the Commission) said that Costa Rica, Dominican Republic, Honduras, Italy, Nicaragua and Uruguay had become sponsors of the draft resolution.

9. Mr. URRUELA PRADO (Observer for Guatemala), having thanked the international community for supporting his Government throughout the peace negotiation process, which had put an end to years of suffering not only for Guatemala but for all the countries of Central America, said that his Government reaffirmed its determination to spare no effort to combat impunity

and to shed light on all human rights violations and acts of violence committed during the internal conflict. The text of the draft resolution, as revised, was a clear reflection of the spirit of reconciliation and peace that currently prevailed in Guatemala and had been rendered possible by support from many other countries and the assistance of the independent expert. He reaffirmed his Government's intention to continue cooperating with the Commission on Human Rights and expressed the hope that the draft resolution would be adopted without a vote.

10. Mr. HYNES (Canada) recalled that Canada had actively supported United Nations efforts to help the Guatemalan Government and people to restore peace in Guatemala and had always followed the work of the independent expert closely. It was all the more unfortunate, therefore, that his delegation had not received the texts of the changes to the draft resolution in time to study them properly before taking a decision.

11. Mr. van WULFFTEN PALTHE (Netherlands) said that his delegation would also have liked more time to consider the texts of the draft resolution and revisions, which it had received only a few minutes earlier. Some members of the Commission would no doubt like to seek instructions from their Governments. He therefore formally requested that the decision on the draft resolution under review should be postponed until a later date.

12. Mr. de ICAZA (Mexico) acknowledged that the texts had been distributed somewhat late, precisely because the last consultations between UNRG and the Goverrment of Guatemala had been concluded only the day before. However, he had no objection to postponing the adoption of the draft resolution. In that connection, he wished to rectify some errors in the English version as compared with the original Spanish version. The last word in the second preambular paragraph, "entities", should be replaced by the word "actors" and, in the fourth preambular paragraph, the words "to monitor the permanent ceasefire" should be replaced by "to verify the definite ceasefire". In the last line of paragraph 3, the word "during" should be replaced by "in". In paragraph 4, the word "judicial" should be inserted before the word "proceedings"; in paragraph 6, the words "for implementing" should be replaced by "for compliance with" and, in paragraph 9, the words "to enable" should be replaced by "with a view to enabling". In the French version, also, there were some corrections to be made: the words "de très graves violations" in the first preambular paragraph should be replaced by "des violations les plus graves". In the third and sixth preambular paragraphs, the words "les actes" should be replaced by "les actions". In the third line of paragraph 10, the word "enthousiasme" would be more appropriate than the word "ardeur".

13. The CHAIRMAN said he took it that the members of the Commission agreed to the proposal that the Commission should postpone its decision on the draft resolution (E/CN.4/1996/SR.61) until a later date.

14. It was so decided.

Draft resolution on advisory services, technical cooperation and the Voluntary Fund for Technical Cooperation in the Field of Human Rights (E/CN.4/1997/L.65)

15. Mr. HOYNCK (Germany) said that the draft resolution was intended to emphasize the potential of the programme of advisory services and technical cooperation for developing national capacities in the field of human rights. It was all the more regrettable, therefore, that the budgetary resources allocated to the programme for the current biennium had decreased by half as compared with the previous biennium. On the other hand, contributions to the Voluntary Fund for Technical Cooperation in the Field of Human Rights, especially by developing countries, had increased, and the Commission invited more countries to consider making such contributions.

16. Five changes had been made to the draft text. The first concerned the last preambular paragraph, at the end of which it was proposed to add the following phrase: "and taking also note of the recommendations of the Board of Trustees of the Voluntary Fund for Technical Cooperation", so as to recognize the Board's work. The second concerned paragraph 1, the last phrase of which should be deleted, and the words "aimed at the development of" replaced by the words "provided at the request of Governments with a view to developing". In paragraph 4, the words "and encouraging them to strengthen human rights" should be replaced by the words "in promoting and protecting human rights and strengthening". The first part of paragraph 5, up to the word "exempt", should be replaced by the following text: "Reaffirms that the provision of advisory services and technical cooperation does not exempt any country from the monitoring activities of the human rights programme". Lastly, the second part of paragraph 9, beginning with the words "with a view to integrating" should be replaced by the following text: "with a view to integrating the promotion of all human rights, the rule of law and democracy into the country programmes of the United Nations Development Programme and working together in the execution of projects".

17. His delegation thanked all the delegations that had helped prepare the draft resolution, which it hoped would be adopted without a vote.

18. Mrs. KLEIN (Secretary of the Commission) said that Australia, Bangladesh, Bolivia, Equatorial Guinea, Mongolia, New Zealand, Philippines, Senegal, The Former Yugoslav Republic of Macedonia, Togo, United Kingdom, United States and Uruguay had become sponsors of the draft resolution.

19. The draft resolution (E/CN.4/1997/L.65), as orally revised, was adopted.

Draft resolution on assistance to Somalia in the field of human rights (E/CN.4/1997/L.71)

20. Mr. TOSCANO (Italy), introducing the draft resolution, said that its purpose was to remind the international community that, despite the fact that Somalia was no longer prominently featured in the media, the situation in that country remained tragic. The report of the independent expert left no doubt as to the magnitude of the problems there and the importance of not abandoning the Somali people. The approach taken would have to be pragmatic and realistic and take conditions in the field into account, but the goal was

clear, and he was confident that the draft resolution under review would help to achieve it. The sponsors hoped that it would be adopted without a vote.

21. Mrs. KLEIN (Secretary of the Commission) said that Australia, Ireland, Japan, New Zealand and United States had become sponsors of the draft resolution.

22. Mr. COMBA (Centre for Human Rights) said, with reference to the administrative and programme-budget implications of the draft resolution, that expenses entailed by the request in paragraph 6, namely the establishment by the independent expert of a report on the human rights situation in Somalia, would be charged against the $48,000 allocated for financing Economic and Social Council activities under chapter 21 of the programme-budget approved for the 1996-1997 biennium.

23. The draft resolution (E/CN.4/1997/L.71) was adopted without a vote.

24. Mr. Somol (Czech Republic), Vice-Chairman, took the Chair.

Draft resolution on assistance to States in strengthening the rule of law (E/CN.4/1997/L.72)

25. Mr. VERGNE SABOIA (Brazil) said that the draft resolution updated previous resolutions adopted by the Commission on the same question. Its main thrust was to call attention to the need to provide increased technical and financial support to those States which were committed to democracy and human rights but lacked adequate means and the infrastructure to implement them effectively. The draft, inter alia, encouraged the High Commissioner to continue to explore the possibility of further contact and consultation with financial institutions, with a view to obtaining technical and financial means to strengthen the capacity of the Centre to provide assistance to national projects aiming at the realization of human rights and the maintenance of the rule of law.

26. While emphasizing the continued pertinence of that issue in the light of the scarcity of resources for such programmes, the sponsors, taking into consideration the need for rationalizing the working methods of the Commission, had decided to propose that the matter should be considered biennially, in the light of the Secretary-General's report to the General Assembly and other pertinent information provided by the High Commissioner on the matter. His delegation hoped that the draft resolution would be adopted without a vote.

27. Mrs. KLEIN (Secretary of the Commission) said that Australia, Belgium, Greece, India, Madagascar, Mali, Mongolia, Senegal, Togo and Venezuela had become sponsors of the draft resolution.

28. The draft resolution (E/CN.4/1997/L.72) was adopted.

Draft resolution on the situation of human rights in Haiti (E/CN.4/1997/L.78)

29. Mr. CORRALES LEAL (Observer for Venezuela), introducing the draft resolution on behalf of its sponsors, which had been joined by Germany,

Guatemala, Honduras, Mexico, Spain, Sweden and Uruguay, said that it was an updated version of resolution 1996/58, which the Commission had adopted at its forty-fifth session, and took into account General Assembly resolution 51/110, the conclusions and recommendations of the independent expert, Mr. Adama Dieng, and suggestions and proposals made by the various delegations that had taken part in preparing it.

30. In the resolution, the Commission welcomed the improvements in the situation of human rights in Haiti and noted the statements by the Haitian authorities that the Government of Haiti remained committed to upholding such rights. It welcomed the satisfactory evolution of the political process in Haiti, as reflected in particular in the holding of the presidential elections of 17 December 1995, which had permitted the first transfer of power between two democratically elected Presidents as well as, more recently, the partial parliamentary elections held on 6 April 1997. It welcomed the establishment of the programme of technical cooperation by the Centre for Human Rights aimed at strengthening institutional capacity in respect of human rights. It requested the Haitian Government to adopt a civics education programme to promote the creation of confidence between the population and the national police as well as urgent measures to ensure respect for judicial guarantees, and to study the possibility of establishing a national institution for the protection and promotion of human rights; it also encouraged the Government of Haiti to consider ratifying the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocols to the International Covenant on Civil and Political Rights. Lastly, the Commission invited the independent expert to inform the General Assembly, at its fifty-second session, and the Commission on Human Rights, at its fifty-fourth session, about the development of the human rights situation in Haiti, and invited the international community to continue its involvement in efforts to strengthen democracy in Haiti having regard to the fragility of the political, social and economic situation of the country. His delegation hoped that the Commission would adopt the draft resolution without a vote.

31. Some slight changes had been made to the text of the draft resolution. In paragraph 2, after the words "democratically elected Presidents", the words "as well as, more recently" should be replaced by "and took note of". In paragraph 7, the word "continued" should be added before the word "inclusion".

32. Mrs. KLEIN (Secretary of the Commission) said that Algeria and Israel had become sponsors of the draft resolution.

33. Mr. BIGGAR (Ireland) said he was surprised at the reference in paragraph 18 of the draft resolution to the Special Rapporteur on violence against women visiting Haiti "with the support of the United Nations Population Fund". He would like to know why, contrary to the usual practice, the Special Rapporteur's visit should be financed by that Fund.

34. Mr. COMBA (Centre for Human Rights) said, with reference to the administrative and programme-budget implications of the draft resolution, that expenditures for the activities referred to in paragraph 14 would amount

to $120,000 and would be charged to chapter 21 of the programme-budget approved for the 1996-1997 biennium. If the draft resolution was adopted, therefore, no additional resources would be needed.

35. Mr. CORRALES LEAL (Observer for Venezuela) replying to the representative of Ireland, said that the draft resolution under review had been prepared on the basis of General Assembly resolution 51/110, adopted by consensus, and that paragraph 18 was based directly on that resolution. The Commission was a subsidiary body of the General Assembly and was therefore required to take the Assembly's decisions into account.

36. Mr. van WULFFTEN PALTHE (Netherlands) said he agreed that it was unclear why UNFPA should finance the Special Rapporteur's visit. To resolve the problem and enable the Commission to decide on the draft resolution without delay, therefore, he proposed that the last phrase of paragraph 18 should be deleted.

37. Mr. BIGGAR (Ireland) supported the Netherlands proposal. If the sponsors did not agree, he would propose consideration of the draft should be postponed until a later date.

38. Mr. CORRALES LEAL (Observer for Venezuela), speaking on behalf of the sponsors, said that under the circumstances it would be preferable for the Commission to postpone its decision on the draft resolution.

39. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission approved the proposal to postpone its decision on the draft resolution (E/CN.4/1997/L.78).

40. It was so decided.

Draft resolution on the situation of human rights in Cambodia (E/CN.4/1997/L.80)

41. Mrs. KERR (Observer for Australia), introducing the draft resolution, said that it was based on previous Commission and General Assembly resolutions on the same question and took into account the conclusions and recommendations of the Secretary-General's Special Representative in Cambodia. The text reflected the international community's determination to continue to assist Cambodia in its efforts to promote and protect human rights, for it still had much to do in that area. Her delegation hoped that the draft resolution would be adopted without a vote, as in previous years.

42. Mrs. KLEIN (Secretary of the Commission) said that France, Italy, United Kingdom and United States had become sponsors of the draft resolution.

43. Mr. de ICAZA (Mexico) said that he had unfortunately received the Spanish version of the draft resolution too late to transmit it to his Government. Nevertheless, he would not ask the Commission to postpone its decision.

44. Mr. PRATOMO (Indonesia), speaking on behalf of the Asian Group, said that the Group wished to enter reservations to certain paragraphs in the text, the goals and purposes of which were not very clear. If a consensus emerged, however, the Asian Group would join it.

45. The draft resolution (E/CN.4/1997/L.80) was adopted.

Draft resolutions under agenda item 8 (continued)

Draft resolution on the question of arbitrary detention (E/CN.4/1997/L.79)

46. The CHAIRMAN invited the members of the Commission to resume their consideration of the draft resolution (E/CN.4/1997/L.79), which had been postponed pending distribution of the formal amendment proposal submitted by Cuba, which was currently available under the symbol E/CN.4/1997/L.99.

47. Mr. ALFONSO MARTINEZ (Cuba) said that both texts had been distributed too late for delegations, and especially their Governments, to study them thoroughly. He therefore proposed that the Commission should postpone its decision on the subject.

48. Mr. BERNARD (France) said that the draft resolution under review had been the subject of intensive consultations for more than four weeks and that everyone should have a thorough knowledge of the substance of the question. He realized that delegations needed enough time to make an informed decision on the draft resolution, but he did not think that a few more hours would alter the problem to a significant extent. It was, of course, for the Chairman and the other members of the Commission to decide how to proceed, but his own delegation was ready to take a decision on the draft resolution without delay. It would also be making a few changes to the draft text.

49. Mr. ALFONSO MARTINEZ (Cuba) said that he had not based his request on any of the rules of procedure. However, Commission practice had always been to allow at least 24 hours between the publication of a document and the vote on its text, so that all delegations would have all the elements needed to take a decision. He therefore maintained his proposal.

50. Mr. STEEL (United Kingdom) acknowledged the Cuban delegation's arguments in support of its request. However, the issue contained in the proposed amendment was not a complicated one, and all the members of the Commission could easily study it and take a decision promptly, if necessary with help from the representative of Cuba in providing any clarifications. He therefore urged the Cuban delegation not to insist on its proposal, in order that the Commission might forge ahead, in view of the many issues it still had to consider.

51. Mr. ALFONSO MARTINEZ (Cuba) said that he had made the proposal not because he underestimated the analytical capacity of the members of the Commission, but because he respected the members and wished them to be able to consult their Governments in order that the vote on the proposed amendment should be conducted with absolute fairness.

52. Mr. van WULFFTEN PALTHE (Netherlands) said that, earlier in the day, the Commission had adopted various draft resolutions, some of which had been orally revised during the meeting while others had been distributed quite late or not at all in certain languages. To be sure, his own delegation had invoked the 24-hour rule to request postponement of draft resolution E/CN.4/1997/L.80, but the question involved in that resolution was a highly political one concerning a country's situation and some delegations needed specific instructions from their Governments. The same could not be said of draft resolution E/CN.4/1997/L.79 or the Cuban amendment and his delegation was prepared to take a decision on both.

53. Mr. de ICAZA (Mexico) said that, in his view, the question forming the subject of the draft resolution (E/CN.4/1997/L.79) was a very important one and it was essential to have sufficient time to study it properly. The Commission should therefore postpone its decision and, in the interim, the Cuban and French delegations might consult each other to reach an agreement and thus facilitate the Commission's subsequent work.

54. Mr. LIU Xinsheng (China) said he agreed that that was the only way to proceed if a consensus was to be reached on the text.

55. After an exchange of views in which Mr. ALFONSO MARTINEZ (Cuba), Mr. SINGH (India), Mr. VERGNE SABOIA (Brazil) and Mr. HYNES (Canada) took part, the CHAIRMAN suggested that the decision on the draft resolution (E/CN.4/1997/L.79) and its proposed amendment (E/CN.4/1997/L.99) should be postponed. If he heard no objection, he would take it that the Commission agreed to that suggestion.

56. It was so decided.

Draft decision 11 of the Sub-Commission, recommended to the Commission for adoption, on the study on indigenous land rights (E/CN.4/1997/2 - E/CN.4/Sub.2/1996/41) and a proposed amendment thereto (E/CN.4/1997/L.98)

57. Mr. MARKIDES (Observer for Cyprus), introducing the proposed amendment (E/CN.4/1997/L.98) on behalf of its sponsors, to which Chile, Guatemala and Peru should be added, said that the text was the result of intensive consultations among a large number of delegations and represented a compromise, which he hoped that the Commission would adopt without a vote.

58. Mrs. KLEIN (Secretary of the Commission) said that Canada should be added to the list of sponsors of the draft amendment.

59. Mr. BALL (Observer for New Zealand) said that his Government attached a high priority to the issue of indigenous land rights and had established a process for resolving historical grievances. At the same time, it was extremely important for such questions to be considered in the framework of the United Nations system. While appreciation was due to Mrs. Daes for her work on land issues, as Chairman of the Sub-Commission Working Group, his Government welcomed the establishment of the Commission Working Group in accordance with resolution 1995/32. For that reason, it had reservations about mandating a special rapporteur on land issues for the time being and wished to place those views on record.

60. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission wished to adopt the proposed amendment (E/CN.4/1997/L.98), which would replace Sub-Commission draft decision 11, without a vote.

61. It was so decided.

62. Mr. van WULFFTEN PALTHE (Netherlands) said he noted that the Commission had adopted, immediately and without a vote, an amendment that had been distributed a few minutes previously. He hoped that that practice would continue.

63. The CHAIRMAN said that the Commission had concluded its consideration of draft resolutions under agenda item 24 and invited those delegations that wished to do so to speak in explanation of their votes under that item.

64. Mr. KONISHI (Japan) said that, while his delegation had joined the consensus on document E/CN.4/1997/L.98, replacing Sub-Commission draft decision 11, it wished the record to show that it considered that future Commission decisions on the appointment of a new special rapporteur of the Sub-Commission should take due account of paragraph 3 of draft resolution E/CN.4/1997/L.43 on the Sub-Commission's working methods and the Guidelines adopted by the Sub-Commission concerning its methods of work, which were annexed to resolution 1992/8.

Statements in exercise of the right of reply

65. Mr. MANOUSSAKIS (Observer for Greece) said he wished to make it clear once again that the country which had joined the United Nations in accordance with Security Council resolution 817 (1993) was not called "Macedonia", as the Secretariat had mistakenly indicated, but "The Former Yugoslav Republic of Macedonia" and that speakers should abide by the official name. It was time to stop exploiting the Commission on Human Rights for political purposes, as the representatives of that country had done.

66. Mrs. CVETANOVSKA (Observer for The Former Yugoslav Republic of Macedonia) reaffirmed that her country's constitutional name was "Republic of Macedonia" and that Security Council resolution 817 (1993) entitled the country to use that name. The Commission on Human Rights was certainly not the appropriate forum for questioning a country's will to call itself by the name of its choice.

The meeting rose at 8.20 p.m.